

IN THE UNITED STATE DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

MILLARD REDDEN TOUSSAINT

PLAINTIFF

VS.

CIVIL ACTION NO.: 2:17-cv-43-KS-MTP

FORREST COUNTY, MISSISSIPPI,  
FORREST COUNTY SHERIFF'S DEPARTMENT,  
FORREST COUNTY SHERIFF BILLY MCGEE,  
JOHN DOES 1-3 INDIVIDUALLY AND IN THEIR  
OFFICIAL CAPACITIES

DEFENDANTS

FORREST COUNTY SHERIFF'S DEPARTMENT'S  
MOTION FOR JUDGMENT ON PLEADINGS

Comes now, Defendant Forrest County Sheriff's Department, by and through counsel, and pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, submits its Motion for Judgment on the Pleadings as follows:

1. On March 27, 2017, Plaintiff filed suit alleging that he was arrested on March 21, 2016, by the Hattiesburg Police Department. *CM/ECF Doc. No. 1*. After his arrest, Plaintiff was transported to the Forrest County Jail ("FCJ") where he contends that he was "hit" and "dragged" by "corrections officers." *Id.* at ¶ 4-6.

2. Plaintiff asserts multiple claims against Forrest County, Mississippi, the Forrest County Sheriff's Department and Sheriff Billy McGee. *Id.*

3. The "Forrest County Sheriff's Department" is not a proper defendant amenable to suit.

4. The Mississippi Supreme Court, in *Brown v. Thompson*, 927 So. 2d 733 (Miss. 2006), explained that a "Sheriff's Department does not enjoy a separate legal

existence, apart from [the] County.” *Id.* at 737. Mississippi’s federal courts have found time and again that “[i]t has been clear for some time that in Mississippi, a sheriff’s department is not a separate legal entity which may be sued.” *Harris v. Jackson Cty., Miss.*, 2015 WL 1427412, at \*1 (S.D. Miss. Mar. 27, 2015); see also *Tate v. Sharp*, 2014 U.S. Dist. LEXIS 54959, at \*23 (same); *Cunningham v. Hinds County Sheriff’s Dep’t*, 2012 U.S. Dist. LEXIS 156623, at \*4 (same), *Franklin v. Hinds County Sheriff Dep’t*, 2012 U.S. Dist. LEXIS 116225, at \*4 (same).

5. Inasmuch as the Sheriff’s Department is not a political subdivision amenable to suit, the claims against it must be dismissed.

WHEREFORE, PREMISES CONSIDERED, the Forrest County Sheriff’s Department respectfully requests that this Court dismiss all claims asserted against it.

**DATE: May 18, 2017.**

Respectfully submitted,

**FORREST COUNTY SHERIFF’S  
DEPARTMENT**

BY: /s/William R. Allen  
One of Its Attorneys

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CERTIFICATE

I, the undersigned of Allen, Allen, Breeland & Allen, PLLC, hereby certify that on this day, I electronically filed the foregoing Motion for Judgment on the Pleadings with the Clerk of the Court using the ECF system, which gave notice of the same to the following:

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This the 18<sup>th</sup> day of May, 2017.

/s/William R. Allen  
OF COUNSEL